

COMMENTS

The enclosed is responsive to the Examiner's Final Office Action mailed on March 26, 2004 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner mailed the Final Office Action claims 1-28 were pending. By way of the present response the Applicant has: 1) amended claims 1, 5, 9, 13, 17 and 23; and, 2) has not added or canceled any claims. As such, claims 1-28 remain pending. The Applicant respectfully requests reconsideration of the present application and the allowance of all claims.

The Examiner has maintained a previous rejection of all independent claims. The Applicant respectfully submits that pertinent patentable subject matter within each of the Applicant's claims has failed to reach the mind of the Examiner. Each of independent claims 1, 5, 9, 13, 17 and 23 include reference to a label useable to tunnel both: 1) a request to establish a call yet to be established; and 2) the substantive information of calls that have already been established. That is, a single label can be used to tunnel a mixture of "call setup" information and "live call" information - the former being information pertaining to a call that is seeking to be established, the later being information pertaining to one or more calls that are already established.

None of the prior art cited by the Examiner teaches or suggests tunneling, with the same label, information for calls yet to be established and information for calls already established. The Applicant has amended each of independent claims 1, 5,

9, 13, 17 and 23 to better emphasize the distinction(s) between the matter being claimed and the art presently cited by the Examiner. Moreover, the Applicant has more precisely indicated that the tunneled call request information stems from a telephony call request message.

As such, for instance, claim 1 presently recites (emphasis added):

1. (previously presented) A method comprising:
receiving a telephony call connection request message having a prefix number;
determining a corresponding IP address based on the prefix number;
assigning a label based on the corresponding IP address; and,
tunneling a request that is derived from the telephony call request message through a network by routing the request with other established connections through the network based on the label.

The Applicant herewith repeats the arguments filed 12/29/03 with revised regions of emphasis.

The Examiner has rejected each of independent claims 1, 5, 9, 13, 17 and 23 as being obvious in light of the combination of US Patent No. 6,292,478 (hereinafter, "Farris") and US Patent No. 6,512,768 (hereinafter, "Thomas"). In reaching the conclusion of non-obvious the Examiner has reasoned that

The very nature of data and digital communications is to NOT have a one-to-one relationship between a trunk, line, connection, and a user like a POTS system for example. Therefore it is at the very least obvious that other connections as well are routed using the IP address and label depending on where or how a call is to be routed. Having NON-dedicated lines for communications has been the desire for a long time to increase system resource efficiency/eliminate wasteful resource usage and even to increase system efficiency.

The Examiner's comments above suggest that the Examiner has either failed to comprehend the matter being claimed by the Applicant and/or has failed to comply

with the procedural guidelines set forth for articulating a rejection under 35 USC 103(a). With respect to the former, it appears to the Applicant that the Examiner may have failed to recognize that the claimed request is tunneled by being transported with a label used by other connections. In order to further clarify the subject matter being claimed the Applicant has amended claims 1, 5, 9, 13, 17 and 23.

If the Examiner properly comprehended the claimed subject matter then the Examiner has, at a minimum, failed to provide a proper rejection. "To establish a *prima facie* case of obviousness... the prior art reference (or references when combined) must teach or suggest all the claim limitations." MPEP 2143

The Examiner has used the combination of Farris and Thomas to "cover" the claimed aspect of tunneling a request by using a label used by other connections. Yet, no such matter can be found anywhere in Farris or Thomas, either expressly or impliedly. As such, the Examiner's theory of rejection is improper because the Examiner has failed to find a basis in the prior art for rejecting the Applicant's claims. The Applicant respectfully requests the Examiner to particular identify where in the prior art the technique of tunneling a request through a network by using a label used by other connections is found.

Comments

Should the Examiner fail to be persuaded by the above comments and maintain the present theory of rejection, the Applicant herewith respectfully requests a telephonic interview with the Examiner.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at (408) 720-8300.

Respectfully submitted,

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